

September 20, 2006

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L04P0021**
Proposed Ordinance No. **2006-0330**

BRANDON PLACE SUBDIVISION
Preliminary Plat Application

Location: Between Southeast 312th Street and Southeast 316th Street, west of 121st Place Southeast

Applicant: JPS Holdings LLC
represented by **Joseph Singh**
18124 Riviera Place Southwest
Seattle, Washington 98166
Telephone: (206) 799-3051

King County: Department of Development and Environmental Services,
represented by **Trishah Bull**
900 Oakesdale Avenue Southwest
Renton, Washington 98055
Telephone: (206) 296-6758
Facsimile: (206) 296-7051

SUMMARY OF DECISION/RECOMMENDATIONS:

Department's Preliminary Recommendation:
Department's Final Recommendation:
Examiner's Decision:

Approve with conditions
Approve with revised conditions
Approve with revised conditions

EXAMINER PROCEEDINGS:

Hearing Opened:
Hearing Closed:

August 31, 2006
August 31, 2006

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. General Information:

Owner/Developer: Joe Singh

JPS Holdings LLC
18124 Riviera Place SW
Seattle, WA 98166
(206) 799-3051

Engineer: ESM Consulting Engineers LLC
33915 1st Way South #200
Federal Way, WA 98003
(253) 838-6113

STR: SW 09-21-05

Location: The site is located between SE 312th Street and SE 316th Street, west of 121st Place SE.

Zoning: R-6-SO & R-12-SO

Acreage: 14.32 acres

Number of Lots: 78

Density: 5.44 units per acre

Lot Size: Approximately 3,600 square feet

Proposed Use: Single-family detached dwellings

Sewage Disposal: City of Auburn

Water Supply: City of Auburn

Fire District: King County District No. 44

School District: Auburn School District No. 408

Application Completeness Date: December 23, 2004

2. Except as modified herein, the facts set forth in the DDES reports to the Examiner and the DDES and King County Department of Transportation testimony are found to be correct and are incorporated herein by reference.
3. The subject property is a 14.32-acre, L-shaped parcel located in the Lea Hill unincorporated area south of the City of Kent and east of the City of Auburn. It has double road frontage, on the south side of Southeast 312th Street and on the north side of Southeast 316th Street. It also abuts

the present westerly stub terminus of Southeast 314th Place along its far eastern boundary. The site terrain slopes moderately from southeast to northwest, with a total elevation drop of approximately 90 feet. The property lies with the Lea Hill (tributary 0069) subbasin of the Lower Green River basin. Two small wetlands lie in the far eastern portion of the site, both Class 3; one is an unregulated wetland due to class and size, and the other will be filled and the loss mitigated. Class 3 wetlands and a short stretch of a small intermittent stream lie onsite along the western boundary, and a Class 3 wetland along the southern boundary. A Class 2 wetland lies nearby offsite to the west of the northwest corner. The site is generally vegetated with pasture grasses, with scattered mixed-species trees and brush. Two of the three parcels which comprise the development site have dwelling units which will be removed during construction. The surrounding general area is an urbanizing part of the unincorporated county, one with a substantial amount of new fairly standard-density suburban development.

4. Applicant JPS Holdings LLC proposes subdivision of the property into 78 lots for detached single-family residences. The residential density would be approximately 5.44 units per acre, with lot sizes approximately 3,600 square feet in area. Internal access to the lots would be provided by the extension of a public road system southerly from Southeast 312th Street, with an easterly connection from that road to connect with the present stub terminus of Southeast 314th Place on the east property boundary. South of the connecting major internal roads, two short cul-de-sacs would branch southerly and terminate in the southern portions of the site. The sensitive areas on- and nearby offsite would be buffered and the onsite areas and their buffers placed in sensitive area tracts. A storm drainage detention and water quality facility would be placed in the northwest corner fronting Southeast 312th Street. Four open space/recreation tracts would be distributed through the property, and are suitably provided central locations with regard to the entirety of the site and/or within their respective sectors of the development.
5. The stormwater drainage and detention plan for the proposed development has been designed to address the numerous drainage subbasins across the site. DDES Drainage Adjustment L05V0062 has been granted to allow minor consolidation of the on-site subbasins for drainage direction purposes and the direction of most of the post-developed flow to the detention/water quality facilities in the northwest corner. A relatively small detention pipe is also proposed in the southeast corner adjacent to a recreation tract. The release from the major detention facility in the northwest corner would be directed to the existing ditch system on the south side of Southeast 312th Street. That routing is along an area experiencing flooding of private driveways, ponded water on Southeast 312th Street (both caused and/or aggravated by impeded driveway culverts and a crimp-damaged and design-limited cross-culvert), and a problematic drainage channel in a downstream trailer park. Given the downstream flooding and drainage problems, the Applicant proposes to provide Level 3 flow control (under the 1998 King County Surface Water Drainage Manual; SWDM) as mitigation of the development's drainage impacts. Current nuisance flows along the northeast and northwest property lines would be largely eliminated. Wetland hydrology will be maintained. Some roof downspouts will be dispersed for hydrological purposes.
6. The detailed stormwater mitigation study prepared by the Applicant's consultant and reviewed by DDES drainage officials results in DDES's findings, with which the Examiner concurs, that a) with compliance with the SWDM at the Level 3 flow control proposed by the Applicant, along with the correction of the culvert problems and implementation of pertinent development

conditions herein (see in particular Condition 7), the development's drainage impacts will be adequately mitigated in conformity with applicable standards, and b) existing duration and peak flow rates leaving the site and at the downstream culvert locations which have experienced problems will actually be slightly reduced under the proposed developed conditions.

7. Traffic impacts of the proposed development would be adequately mitigated under the code by the standard collection of MPS mitigation fee payments under Chapter 14.75 KCC, except for a significant adverse impact determined by KCDOT under KCC 14.80.030, and the SEPA responsible official in the mitigated DNS, at the intersection of Southeast 312th Street at 112th Avenue Southeast to be projected to occur at the horizon year of the development. A correcting mitigation measure is imposed by the mitigated DNS, and is carried forward as a condition of preliminary plat approval; the mitigation has received conceptual approval by KCDOT traffic engineering and the County traffic engineer. Alternative diversions of traffic initially proposed by the Applicant's traffic engineer to lessen the projected impact have been found unworkable due to Metro bus service routes and opposition by the City of Auburn. The Applicant is no longer pursuing such diversions as an alternative means of mitigation of the significant traffic impact and only desires that crediting of the MPS fees against the required mitigation improvements be considered by the County. (As things stand at present, such crediting is not possible, since the County no longer has a capital improvement project proposed for the intersection or the subject segment of Southeast 312th Street, a prerequisite for such crediting.)
8. All resident public schoolchildren will be bused to their respective schools from the plat entry at Southeast 312th Street; the development's internal sidewalks will provide safe walking conditions to the bus stop.

CONCLUSIONS:

1. The proposed subdivision, as conditioned below, would conform to applicable land use controls. In particular, the proposed type of development and overall density are specifically permitted under the R-6-SO and R-12-SO zones.
2. If approved subject to the conditions below, the proposed subdivision will make appropriate provisions for the topical items enumerated within RCW 58.17.110, and will serve the public health, safety and welfare, and the public use and interest.
3. The conditions for final plat approval set forth below are reasonable requirements and in the public interest.
4. The dedications of land or easements within and adjacent to the proposed plat, as shown on the revised preliminary plat submitted on April 16, 2006, or as required for final plat approval, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.

DECISION:

The preliminary plat of the *Brandon Place* subdivision, as revised and received April 16, 2006, **and as further revised as depicted in Exhibit 16 with respect to extending the sensitive area tract to the east boundary with corresponding lot layout revisions**, is approved subject to the following conditions of approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3.
 - a. The plat shall comply with the density requirements of the pertinent zone classifications (R-6-SO or R-12-SO) onsite. All lots shall meet the minimum dimensional requirements of the pertinent zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
 - b. As a result of the recommended conditions, further evaluation may result in the reconfiguration and/or reduction in lots.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS).
5. The applicant shall obtain documentation by the King County Fire Protection Engineer certifying compliance with the fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the approved preliminary plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.
 - a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.

- c. The following note shall be shown on the final recorded plat:

All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."

7. The Tract A drainage detention facility (northwest corner) shall be designed to meet at a minimum the Level 3 Flow Control and Basic Water Quality requirements in the 1998 King County Surface Water Design Manual (KCSWDM). The stormwater management for this site shall be designed in general conformance with the Brandon Place Stormwater Mitigation Study by Ed McCarthy, PE, PS received June 13, 2006.
- The south end of the existing 18-inch cross-culvert under Southeast 312th Street (west of the site) shall be repaired. The cross-culvert shall also be cleaned during the construction phase. The culvert under the driveway to 11809 Southeast 312th Street (the Worton property) shall also be cleaned during the construction phase.
8. A drainage adjustment (L05V0062) is approved for this site. All conditions of approval for this adjustment shall be incorporated into the engineering plans.
9. The following road improvements are required to be constructed according to the 1993 King County Road Standards (KCRS):
- a. 120th Pl SE from SE 312th St to SE 314th PL shall be improved at a minimum to the urban subcollector street standard. Per a telephone conversation with Jim Denton at Auburn School District (August 17, 2006), a widened sidewalk shall be provided at or near proposed Lot 1 for a school bus stop for school age residents of the proposed subdivision.
 - b. 120th Pl SE from SE 314th PL to the cul-de-sac shall be improved at a minimum to the urban minor access street standard.
 - c. SE 314th PL shall be improved at a minimum to the urban subcollector street standard.
 - d. 121st Ct SE shall be improved at a minimum to the urban minor access street standard.
 - e. FRONTAGE: The frontage of the site along SE 312th Street shall be improved to the urban minor arterial standard. The design shall require compliance with Section 4.01(f) of the KCRS; asphalt overlay when widening.

In order to address safe walkway conditions for students crossing SE 312th Street after being dropped off from the school busses in the afternoon, the applicant shall evaluate the feasibility of installing a curbed median island to serve as a pedestrian refuge for school age pedestrians. Plans for this improvement shall be submitted at engineering plan review for precise determination of feasibility.

- f. FRONTAGE: The frontage along SE 316th Street shall be improved with a minimum 12ft driving lane and a minimum 5ft wide paved walkway.
 - g. The proposed private access tracts and joint use driveways shall comply with Sections 2.09 and 3.01 of the KCRS. These tracts shall be owned and maintained by the lot owners served. Notes to this effect shall be showed on the engineering plans and the final plat.
 - h. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
- 10. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
 - 11. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
 - 12. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
 - 13. The planter islands (if any) within the cul-de-sacs shall be maintained by the abutting lot owners or homeowners association. This shall be stated on the face of the final plat.
 - 14. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in the applicable version of KCC 21A.24. Permanent survey marking and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.

15. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the applicant.

Wetlands

- a. The Class 3 Wetland/Stream shall have a 25-foot buffer as measured from the edge of wetland or ordinary high water mark (OHWM) of the stream.
- b. The Class 2 wetland shall have a 50-foot buffer as measured from the edge of wetland.
- c. Buffer averaging maybe allowed per KCC 21A.24. A buffer enhancement plan may be required prior to approving a buffer averaging plan.
- d. All sensitive areas and their buffers shall be placed in Sensitive Area Tracts for long term protection.
- e. Signage and fencing shall be installed along the Sensitive Area Tract boundaries for long term protection and to clearly mark the extent of the tracts. (Also see Condition 22 imposed as a mitigation measure under SEPA.)
- f. A 15-foot building setback line (BSBL) is required from the edge of all Sensitive Area Tracts and shall be shown on all affected lots.
- g. Sensitive area tract boundaries shall be clearly marked with bright orange construction and silt fencing prior to construction or site clearing activities. The boundaries shall remain marked until construction is complete.
- h. Impacts to sensitive areas for road improvements may be allowed per KC 21A.24. However mitigation shall be required. Construction techniques such as retaining walls maybe required at such crossings or improvements to limit impacts. A final mitigation plan shall be required during engineering review.
- i. Hydrology may not be altered either during or after development. A hydrology analysis may be required during engineering review to show how the hydrology will be maintained after the site is developed.
- j. Work within the OHW may require a Hydraulic Project Approval (HPA) from the State Department of Fish and Wildlife. It will be the applicant's responsibility to coordinate with WDFW to determine if an HPA is needed.
- k. The engineering plans shall be routed to Critical Areas Staff for review of compliance to the above conditions. Further evaluation may result in the reconfiguration and/or reduction in lots.

1. The following note shall be shown on the final engineering plan and recorded plat:

**RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE
AREAS AND BUFFERS**

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

16. Suitable recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
 - a. A detailed recreation space plan (i.e., area calculations, dimensions, landscape specifications, equipment specifications, etc.) shall be submitted for review and approval by DDES and King County Parks prior to or concurrent with the submittal of the engineering plan. This plan must not conflict with the Significant Tree Inventory & Mitigation Plan. (See Condition 19)
 - b. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
17. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, open space and/or sensitive area tract(s).

18. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The applicant shall contact Metro Service Planning at 684-1622 to determine if SE 312th Street and/or SE 316th Street are on a bus route. If SE 312th Street and/or SE 316th Street is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
19. To implement comprehensive plan policy SO-220, which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention and engineering plans shall be consistent with the requirements of SO-220. No clearing

of the site is permitted until the tree retention plan is approved by DDES. Flagging and temporary fencing of trees to be retained shall be provided, consistent with SO-220. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except as may be permitted under the provisions of SO-220.

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. The tree retention plan shall be included as part of the final engineering plans for the subject plat.

20. In the event that any archaeological objects are uncovered on the site, the applicant shall comply with RCW Chapter 27.53, Archaeological Sites and Resources. Immediate notification and consultation with the State Office of Archaeology and Historical Preservation, King County Office of Cultural Resources and relevant tribes (including the Suquamish, Puyallup and Muckleshoot tribes) is required if discovered materials are prehistoric and an archaeological site is present.
21. The following have been established by SEPA as necessary requirements to mitigate the adverse environmental impacts of this development. The applicants shall demonstrate compliance with these items prior to final approval:

In order to mitigate the significant adverse impact that the proposed development will have at the intersection of Southeast 312th Street/ 112th Avenue SE intersection, as identified in the original and resubmitted traffic impact analyses, the applicant will widen Southeast 312th Street. This roadway widening will provide a merge/refuge area for the northbound-to-westbound left turn movement off of 112th Avenue Southeast and include all related roadway channelization and an illumination system designed in compliance with the King County Road Standards, in general conformance with the conceptual channelization plan submitted to KCDOT on July 11, 2006, except as modified as follows.

The plans for this off-site roadway improvement shall incorporate either:

- full-width paved shoulder along the south side of SE 312th Street through the limits of the widened section, transitioning to a width matching the existing shoulder width at/near the limits of the channelization transitions, provided that the existing utility poles remain 10 or more feet away from the edge of the roadway travel lanes,

If the applicant, instead, relocates the two existing utility poles (the pole approximately 180 feet east of the intersection, and the pole approximately 280 feet west of the intersection), to a point at least 10 feet south of the new location of the eastbound through lane, then the shoulder on the south side of the roadway may be reduced to a minimum of 5.5 feet

or

- shall incorporate a combination of urban roadway shoulder design (i.e. curb, gutter and sidewalk) along the south side of SE 312th Street through the limits of the widened section,

transitioning to a width matching the existing shoulder width at/near the limits of the channelization transitions, provided that the existing utility poles remain at least 5.5 feet south of the curb line.

In each case, the selected shoulder design (paved shoulder, or, concrete curb, gutter and sidewalk) shall be continued onto 112th Avenue SE to provide for pedestrian safety and to accommodate the existing METRO Route 181 transit stops.

Plans for these improvements shall be submitted to the King County DOT Traffic Engineering Section and King County DOT Transit Division for review, and approval by KCDOT Traffic Engineering.

22. Prior to final approval of construction activities on the site, the boundary between the Sensitive Area Tract(s) and adjacent land shall be identified using a split-rail fence and permanent signs.

ORDERED this 20th day of September, 2006.

Peter T. Donahue, Deputy
King County Hearing Examiner

TRANSMITTED this 20th day of September, 2006 to the following parties and interested persons of record:

Auburn School Dist.
Attn: Michael Newman
915 Fourth St. NE
Auburn WA 98002-4452

Tom Beardslee
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Auburn WA 98092

Denita Blount
31601 - 118th Pl. SE
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Chris Brown
Christopher Brown & Assoc.
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City of Auburn
Planning Dept.
25 W. Main St.
Auburn WA 98001-4998

Melvin Worton
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ESM Consulting Eng.
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Harbour Homes, Inc.
Attn: Justin Lagers
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Ed McCarthy
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Steve Townsend
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Larry West
DDES/LUSD
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before October 4, 2006***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before October 11, 2006***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE AUGUST 31, 2006, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L04P0021.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Trishah Bull, Bruce Whittaker and Kristin Langley, representing the Department; Phillip Kitzes representing the Applicant; Ed McCarthy, Christopher Brown, Mel Worton, and Tom Beardslee.

The following Exhibits were offered and entered into the record:

- Exhibit No. 1 Department of Development and Environmental Services file no. L04P0021
- Exhibit No. 2 Department of Development and Environmental Services preliminary report dated August 31, 2006
- Exhibit No. 3 Application for Land Use Permits received November 15, 2004
- Exhibit No. 4 Environmental Checklist received November 15, 2004
- Exhibit No. 5 SEPA Mitigated Determination of Non-significance issued July 25, 2006
- Exhibit No. 6 Affidavit of Posting indicating a posting date of December 29, 2004; received by DDES on January 3, 2005
- Exhibit No. 7 Preliminary plat map dated April 12, 2006 (revised)
- Exhibit No. 8 Assessor's maps (2) – NW 9-21-5 and SW 9-21-5
- Exhibit No. 9 Stormwater Mitigation Study by Ed McCarthy, P.E., received June 13, 2006 (revised)
- Exhibit No. 10 Wetland and Stream Analysis by B-12 Wetland Consulting, Inc., received August 24, 2005 (revised)
- Exhibit No. 11 L05V0062 Modification Request– Approved KCSWDM adjustment dated August 3, 2006
- Exhibit No. 12 Channelization Study (map) received April 12, 2006
- Exhibit No. 13 Traffic Impact Analysis by Christopher Brown & Associates, received November 15, 2004
- Exhibit No. 14 Letter from Melvin E. Worton dated May 24, 2005
- Exhibit No. 15 Letter from Auburn School District dated June 28, 2006; received by DDES on August 4, 2006
- Exhibit No. 16 Overall Landscape Plan and Recreation Plan (2 sheets) received August 24, 2005
- Exhibit No. 17 SE 312th/112th Ave. SE Channelization Plan for Brandon Place dated July 6, 2006
- Exhibit No. 18 Letter from Christopher Brown dated March 30, 2006, with attachments (2)
- Exhibit No. 19 New paragraph for Condition 7

PTD:ms
L04P0021 RPT